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OFFICE OF PETITIONS

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|---------------------------------|---|------------------------|
| In re Patent No. 6,868,099 | : | DECISION ON REQUEST |
| Walker et al. | : | FOR RECONSIDERATION OF |
| Issue Date: March 15, 2005 | : | PATENT TERM ADJUSTMENT |
| Application No. 09/706,088 | : | and |
| Filed: November 3, 2000 | : | NOTICE OF INTENT TO |
| Attorney Docket No. 032026:0486 | : | ISSUE CERTIFICATE OF |
| | : | CORRECTION |

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed April 8, 2005. Patentees request that the patent term adjustment indicated in the Issue Notification (and in the patent) be corrected from one hundred eighty-seven (187) days to three hundred seven (307) days.

The request for reconsideration of the patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred seven **(307)** days.

On March 15, 2005, the application matured into U.S. Patent No. 6,868,099, with a revised patent term adjustment of 187 days. On April 8, 2005, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 307 days. Patentees dispute the reduction of 120 days associated with the filing of an application for patent term adjustment on March 18, 2004.

Petitioner's argument is well-taken. 37 CFR 1.704(e) provides that submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under

paragraph (c)(10) of this section. A review of the application record confirms that the reduction of 120 days was based solely on the filing of such a paper after allowance. Thus, it is concluded that the reduction of 120 days is incorrect.

In view thereof, the patent term adjustment indicated in the patent should have been three hundred seven **(307)** days.

The Office will issue a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by THREE HUNDRED SEVEN **(307)** days.

The \$200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 06-0916, as authorized. No additional fees are required.

The application file is being forwarded to the Certificate of Corrections Branch for issuance of the certificate of correction.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
prc

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Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction